

**FILED**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

2004 APR 28 AM 9:47

IN THE MATTER OF  
Emilie Montgomery

CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DIST OF MISS

No. 04-12285

MOTION TO AVOID NONPOSSESSORY, NONPURCHASE MONEY  
SECURITY INTEREST AND OTHER RELIEF

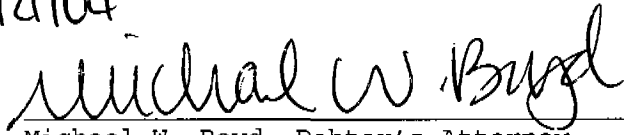
COMES NOW THE DEBTOR(S), by and through counsel, and files this Motion to Avoid Nonpossessory, Nonpurchase Money Security Interest and Other Relief in this Cause, and in support of said Motion, would state as follows:

1. Debtor(s) commenced this cause by filing a petition for relief under Chapter 7 of Title 11 of the United States Code.
2. Debtor(s) are indebted to Benefical in the approximate amount of \$ 1,107.54, which is secured by household furnishings and personal possessions which are held primarily for the family household use of Debtor(s). All such possessions of Debtor(s) should be exempt pursuant to the laws of the State of Mississippi. The money owed by Debtor to Benefical does not represent any part of a purchase money security lien for any of the articles listed in the security agreement executed by the Debtor(s), and all of the articles so covered remain in the possession of the Debtor(s). The existence of the Creditor's lien on Debtor's household and personal goods impairs exemptions to which Debtor would be entitled under 85-3-1 of the Mississippi Code of 1972, 11 U.S.C. 522(f)(2) and Owen v. Owen, 111 S. Ct. 1933 (1991).

WHEREFORE, PREMISES CONSIDERED, an Order should be entered avoiding the security interest in the Debtor's personal and household goods pursuant to 11 U.S.C. 522(f)(2), and for such other additional or alternative relief as may be just and proper.

SHOULD ANY DEBTOR DESIRE TO OBJECT TO SAID MOTION TO AVOID NONPOSSESSORY, NONPURCHASE MONEY SECURITY INTEREST AND OTHER RELIEF, OBJECTION MUST BE FILED TWENTY DAYS FROM THE FILING DATE OF THIS MOTION OR AN ORDER WILL BE ENTERED GRANTING THE RELIEF SOUGHT.

Respectfully submitted, this, 4/28/04

  
Michael W. Boyd, Debtor's Attorney

**ORIGINAL**

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE MATTER OF  
Emilie Montgomery

CHAPTER 7

No. \_\_\_\_\_

NOTICE OF MOTION

I, Michael W. Boyd, Attorney for Debtor(s) herein, do hereby notice the following creditor that a Motion to Avoid Nonpossessory, Nonpurchase Money Security Interest and Other Relief has been filed on behalf of Debtor(s):

Benefical  
Bankruptcy Department  
PO Box 9055  
Brandon, FL 33509

NOTICE IS FURTHER GIVEN that all creditors and other interested parties desiring to object to said Motion are hereby required to file written Objections within 20 days of the filing of said Motion with the Clerk of this Court:

Hon. Joseph E. Wroten, Clerk  
U. S. Bankruptcy Court  
P. O. Box 867  
Aberdeen, MS 39730

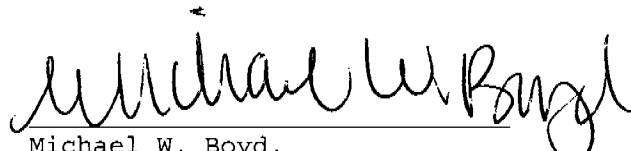
and to serve a copy of said Objections upon Attorney for Debtor(s) and the Case Trustee:

Michael W. Boyd, Attorney at Law  
Post Office Box 1586  
Greenville, MS 38702-1586

Jeffery Levingston, Chapter 7 Bankruptcy Trustee  
Post Office Box 1327  
Cleveland, MS 38732

In the event such written objection or other responsive pleading is not filed within 20 days of the filing of this Motion, said Motion may be determined ex parte by the Court. In the event a written response is filed, the Court will notify you of the date, time and place of the hearing thereon.

Dated: 4/21/04

  
Michael W. Boyd,  
Attorney for Debtor

Michael W. Boyd, Attorney for Debtor  
Post Office Box 1586  
Greenville, MS 38702-1586  
Telephone: 601-332-0202  
Fax: 601-332-0241

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

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CHAPTER 7

No. \_\_\_\_\_

CERTIFICATE OF SERVICE

I, Michael W. Boyd, Attorney for Debtor(s), do hereby certify that I have this day mailed a true and correct copy of the above and foregoing Motion to Avoid Nonpossessory, Nonpurchase Money Security Interest to the following individuals:

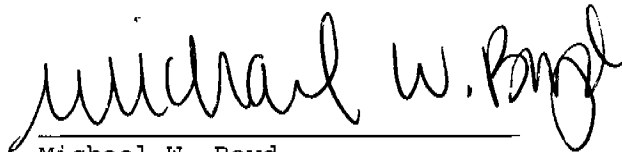
Jeffery Levingston, Chapter 7 Trustee  
Post Office Box 1327  
Cleveland, MS 38732

U. S. Trustee  
Suite 808 McCoy Federal Building  
Jackson, MS 39269

Beneficial  
Bankruptcy Department  
PO Box 9055  
Brandon, FL 33509

Dated:

4/21/04



Michael W. Boyd,  
Attorney for Debtor(s)

Michael W. Boyd, Attorney at Law  
Post Office Box 1586  
Greenville, MS 38702-1586  
Telephone: 601-332-0202  
Fax: 601-332-0241

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI

IN THE MATTER OF  
Emilie Montgomery

CHAPTER 7  
No. 04-12285

ORDER AVOIDING NONPOSSESSORY,  
NONPURCHASE MONEY SECURITY INTEREST

THIS CAUSE HAVING COME ON THIS DAY on hearing on Debtor's Motion to Avoid Nonpossessory, Nonpurchase Money Security Interest, filed against Benefical, and the Court, having considered said Motion and finding that no responsive pleading being filed, finds it is well taken and should be sustained.

It is therefore Ordered that the lien of Benefical on the Debtor's personal and household goods be, and the same is hereby avoided pursuant to 11 U.S.C. 522 (f) (2).

SO ORDERED, this, the \_\_\_\_\_ day of \_\_\_\_\_, 2001

\_\_\_\_\_  
David W. Houston, III  
United States Bankruptcy Judge